

1141 PL-I 33086

DECISION



**THE COMPTROLLER GENERAL
OF THE UNITED STATES**
WASHINGTON, D.C. 20548

FILE: B-218914.4 **DATE:** December 23, 1985

MATTER OF: Standard Manufacturing Company, Inc.--
Reconsideration

DIGEST:

Request for reconsideration on grounds that GAO allegedly failed to address one basis of protest is denied when protester does not show that initial decision, holding that two bases of protest are essentially the same and that neither has legal merit, was erroneous.

Standard Manufacturing Company, Inc. requests reconsideration of our decision Standard Mfg. Co., Inc., B-218914.3, Aug. 14, 1985, 85-2 CPD ¶ 170, in which we held that there was no merit to the allegation that the protester and the proposed awardee, Dewey Electronics Corporation, were not competing on a common basis. Alternatively, Standard had argued that the Navy was not procuring on the basis of its minimum needs, an argument that the firm asserts we failed to consider.

We deny Standard's request for reconsideration.

The Naval Regional Contracting Center, Philadelphia, Pennsylvania, issued solicitation No. N00140-84-R-1307 on September 14, 1984, seeking cradle adaptors that are used for transporting weapons on board aircraft carriers. These were to be manufactured in accord with listed drawings. Award was to be based on price, and no technical proposals were required.

In its request for reconsideration, Standard states that its argument that the Navy's specifications exceed its minimum needs is founded upon previous waivers and deviations from the same specifications that the Navy has granted under existing contracts with Dewey. According to the protester, these constituted technical decisions by the cognizant Navy technical staff that the changes in manufacturing methods or relaxed tolerances for various parts were acceptable and would meet its minimum needs. The firm

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states that it would have offered a lower price if the solicitation had contained the less restrictive specifications. Standard further argues that where, as here, it challenges specifications as being unduly restrictive of competition, the Navy must establish prima facie support for its contention that the restrictions it is imposing are reasonably related to its actual needs. Standard requests that our Office direct the Navy to show specifically how each previously-granted waiver and deviation identified in the protest relates to its actual minimum needs.

In initially denying Standard's protest, we pointed out that according to the Navy, deviations are granted on an individual basis, while waivers are not granted until time of production. We held that Standard had not made a sufficient showing that the granting of deviations and waivers under an existing contract would inevitably require the granting of similar ones under the protested contract, so that offerors were not competing on an equal basis. We stated that we would not, as Standard wished, infer that the Navy again intended to grant deviations and waivers.

We dealt with Standard's alternate basis of protest, i.e., that the Navy had overstated its minimum needs, by pointing out that Standard essentially recited the same facts but used a different legal theory. Under either theory, we refused to sustain the protest on the basis of mere speculation and innuendo.

Thus, contrary to Standard's assertion in the request for reconsideration, we did consider its minimum needs argument, denying the protest on this basis. Nothing in the supplemental report that we requested from the Navy or in Standard's comments on that report changes our belief that the alternate basis of protest is, if not the same protest in different guise, inextricably intertwined with the protest that Standard and Dewey were not competing on an equal basis. Standard has not shown that our prior decision, finding no legal merit to the allegations, is erroneous.

We therefore deny Standard's request for reconsideration.

Harry R. Van Cleve

Harry R. Van Cleve
General Counsel